

CERTIFICATE OF SERVICE

The undersigned hereby certifies that two (2) copies of the attached pleading were served on the following individual this 21st day of May, 2007 by hand delivery:

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P.O. Box 391
Wilmington, DE 19899-0391

/s/ Neal J. Levitsky, Esquire
Neal J. Levitsky (No. 2092)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LABORERS' WELFARE FUND OF DELAWARE LOCAL NO. 199, et al.	:	
	:	
	:	
Plaintiffs,	:	Civil Action No. 07-CV-0055 (SLR)
v.	:	ELECTRONICALLY FILED
	:	
DAVID W. TALLEY GENERAL CONTRACTOR LLC,	:	
	:	
	:	
Defendant.	:	

DEFENDANT'S ANSWER TO PLAINTIFFS' COMPLAINT

Defendant David W. Talley General Contractor LLC, by its undersigned counsel, answers
Plaintiffs' Complaint as follows:

1. Denied as a conclusion of law to which no response is required.
2. Denied as a conclusion of law to which no response is required.
3. Denied as a conclusion of law to which no response is required.
4. Denied as a conclusion of law to which no response is required.
5. Admitted in part; denied in part. While it is admitted that Defendant has its principal place of business at 199 Airport Road, New Castle, Delaware 19720, the remaining averments are denied as conclusions of law to which no response is required.
6. Denied as a conclusion of law to which no response is required.
7. Denied as a conclusion of law to which no response is required.
8. Denied as a conclusion of law to which no response is required.
9. Denied. After reasonable investigation, Defendant is without sufficient information to respond to the averments of paragraph 9 and they are denied.
10. Denied. After reasonable investigation, Defendant is without sufficient information to respond to the averments of paragraph 10 and they are denied.

11. Denied. After reasonable investigation, Defendant is without sufficient information to respond to the averments of paragraph 11 and they are denied.

12. Denied.

13. Denied.

14. The responses to paragraphs 1 through 13 of Plaintiffs' complaint are incorporated by reference as if fully set forth herein.

15. Denied as a conclusion of law to which no response is required.

16. Denied. After reasonable investigation, Defendant is without sufficient information to respond to the averments of paragraph 16 and they are denied.

17. Denied as a conclusion of law to which no response is required. To the extent that this averment is deemed to be factual, it is denied.

18. The responses to paragraphs 1 through 17 of Plaintiffs' complaint are incorporated by reference as if fully set forth herein.

19. Denied as a conclusion of law to which no response is required.

20. Denied as a conclusion of law to which no response is required. To the extent that this averment is deemed to be factual, it is denied.

WHEREFORE, Defendant requests that a judgment be entered in its favor along with costs and counsel fees and such other relief as the court deems just and proper.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs have failed to set forth causes of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Laborers International Union of North America, Local No. 199 AFL-CIO lacks standing to sue.

THIRD AFFIRMATIVE DEFENSE

Defendant asserts all defenses available to it under Section 515 of ERISA.

FOURTH AFFIRMATIVE DEFENSE

Defendant has not failed to permit the Funds to audit the books and records of the Defendant.

FIFTH AFFIRMATIVE DEFENSE

Defendant has supplied purchase orders and invoices for the time period being audited.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate any alleged damages.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to any monies purportedly due and owing.

WHEREFORE, Defendant requests that a judgment be entered in its favor along with costs and counsel fees and such other relief as the court deems just and proper.

FOX ROTHSCHILD LLP

/s/ Neal J. Levitsky 2092
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Dated: May 21, 2007